

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

APR - 3 2007
BY DAVID J. WILKINS, CLERK
DEPUTY _____

UNITED STATES OF AMERICA

§

§

vs.

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§

MICHAEL ARRINGTON

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Case No. 4:05cr252
(Judge Schell/Judge Bush)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 22, 2007, to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Tracey Batson.

On May 25, 2006, the Defendant was sentenced by the Honorable Richard A. Schell to 12 months custody followed by a three year term of supervised release for the offense of Conspiracy to Possess Stolen Mail. On November 1, 2006, the Defendant completed his period of imprisonment and began service of his supervised term.

On January 30, 2007, the U.S. Probation Officer filed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following conditions: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase,

possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substance, except as prescribed by a physician; (4) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office; and (5) Defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons.

The petition alleges that the Defendant committed the following acts: (1) On December 6 and 21, 2006, and January 4 and 19, 2007, Defendant submitted urine specimens that tested positive for methamphetamine; (2) On December 21, 2006, Defendant tested positive for cocaine; (3) On January 18, 2007, Defendant failed to report for a scheduled counseling sessions; (4) On December 13, 2006, Defendant was a no-show for a job opportunity; and (5) Defendant has failed to secure employment while under supervision.

Prior to the Government putting on its case, Defendant entered a plea of true. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, to be served consecutively to any sentence of imprisonment that Defendant is serving, with twenty-six (26) months of supervised release to follow.

Signed this 20 day of March, 2007.

A handwritten signature in black ink, appearing to read "Don D. Bush", written over a horizontal line.

DON D. BUSH
UNITED STATES MAGISTRATE JUDGE